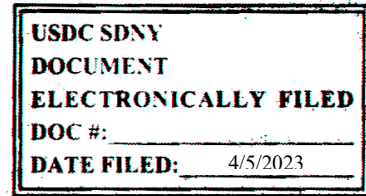


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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ROCHE FREEDMAN LLP,

Plaintiff,

-against-

21-CV-01746 (JGK)(SN)

JASON CYRULNIK,

Defendant.

AMENDED ORDER

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SARAH NETBURN, United States Magistrate Judge:

Counterclaim-Defendant Kyle Roche has failed to establish good cause that would permit him to serve an expert report beyond the deadline for expert discovery. Accordingly, and for the reasons that follow, Mr. Roche's request for leave to serve an expert report is DENIED.

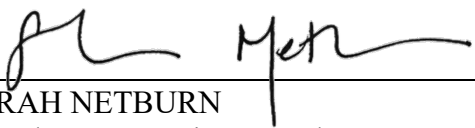
The video clips with which the report is concerned have been public since August of last year and have had serious implications for Mr. Roche and the RF parties in this litigation and others. The videos became relevant to this action as early as September 2022, when the RF parties moved to quash Defendant's subpoena of Mr. Ager-Hanssen, whose conversations with Mr. Roche are featured in the videos. That issue was extensively litigated at the time, both before me and on objection before Judge Koeltl.

Mr. Roche's request also comes a full week after the close of all expert discovery. This is particularly negligent given that the Court has already extended the original expert discovery deadline, see ECF Nos. 169 and 325, and that the parties very recently litigated that deadline—*after* February 20, 2023, when Mr. Roche purports to have retained his new expert. See ECF Nos. 362, 364.

In October 2022, these videos led to the removal of Roche Freedman as interim class counsel in a substantial class action litigation.¹ See In re Tether and Bitfinex Crypto Asset Litig., 19-cv-09236 (KPF), ECF No. 253. They also ostensibly led to Mr. Roche’s departure from the firm he founded, and his withdrawal as counsel in a number of other cases across the country. The severe economic and reputational cost these videos have imposed on Mr. Roche and his former firm have provided ample incentive for the RF parties to thoroughly investigate their authenticity. Yet Mr. Roche argues that despite having “maintained since their release that the videos . . . were distorted,” ECF No. 368-2 at 2, it had not occurred to him to retain an expert on that point until it was suggested by a “friend” in February 2023. Id.

In light of this history, the Court does not find Mr. Roche’s argument persuasive. The Clerk of Court is respectfully directed to terminate the gavel at ECF No. 368. This Order supersedes the Order appearing at ECF No. 377, and the Clerk of Court is respectfully directed to strike ECF Nos. 375 and 377.

SO ORDERED.


 SARAH NETBURN
 United States Magistrate Judge

DATED: April 5, 2023
 New York, New York

¹ An earlier version of this order, filed on March 28, 2023, erroneously characterized this incident. This amended order is issued in response to the RF parties’ March 29, 2023 letter requesting that the Court correct the misstatement.